

Message Text

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TAGS: EIND, EINV, CA

SUBJECT: POSSIBLE IMPLICATIONS FOR FIRA OF WHITE-
WESTINGHOUSE TRADEMARK RESOLUTION

REF.: A) OTTAWA 4811, B) STATE 65455

SUMMARY: APPARENT RESOLUTION OF WHITE-WESTINGHOUSE TRADE-
MARK IMBROGLIO MAY HAVE IMPLICATIONS FOR FUTURE OF CANADIAN
FOREIGN INVESTMENT REVIEW. FEARS OF SOME CANADIAN NATION-
ALISTS HAVE BEEN REALIZED, IN THAT WHITE CONSOLIDATED
INDUSTRIES (WCI) WILL HAVE RIGHT TO MARKET APPLIANCES
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UNDER WESTINGHOUSE TRADEMARK DESPITE TWICE BEING BLOCKED
FROM TAKEOVER OF WESTINGHOUSE CANADA APPLIANCE PLANT.
VOICES MIGHT BE RAISED TO CLOSE OBVIOUS FIRA LOOPHOLE BY
EMPOWERING FIRA TO REVIEW TRADEMARK TRANSFERS. END SUMMARY.

1. PRESS REPORTS CITED REFERENCE A TO EFFECT THAT
WESTINGHOUSE ELECTRIC CORPORATION OF PITTSBURGH HAS

ASSIGNED OWNERSHIP OF WESTINGHOUSE TRADEMARK AND TRADE NAME FOR MAJOR APPLIANCES IN CANADA TO WHITE CONSOLIDATED INDUSTRIES ARE SUBSTANTIALLY CORRECT. WHITE'S PREVIOUS CLAIM TO USE OF TRADEMARK UNDER LICENSE FROM WESTINGHOUSE U.S. NOW SUPERCEDED BY WCI DIRECT OWNERSHIP OF MARK FOR APPLIANCES EFFECTIVE JULY 1. HOWEVER, METCALFE SPECULA-

TION REPORTED REFERENCE A THAT BEHIND SCENES AGREEMENT INVOLVED CAMCO IS NOT REPEAT NOT CORRECT, ACCORDING TO WCI.

2. WHITE HAS NEVER INTENDED TO USE FAMILIAR WESTINGHOUSE TRADEMARK OR TRADE NAME ON APPLIANCES, INSTEAD PLANS TO USE LABEL READING QUOTE WHITE-WESTINGHOUSE UNQUOTE, AS COMPANY NOW DOES IN U.S. HOWEVER, PREVIOUS WHITE STATUS AS LICENSEE OF WESTINGHOUSE MARK MADE IT ADVISABLE FOR WHITE TO SEEK REGISTERED USER STATUS IN CANADA TO AVOID COMPETITOR APPROPRIATION OF UNUSED WESTINGHOUSE TRADEMARK. ASSIGNMENT OF TRADEMARK AND TRADE NAME TO WCI MAKES WHITE FULL OWNER FOR USE ON APPLIANCES AND PRESUMABLY OBVIATES NEED FOR REGISTERED USER AGREEMENT.

3. CERTIFICATION OF REGISTERED USER AGREEMENTS NORMALLY HAS BEEN TREATED BY CANADIANS AS FORMALITY. SPECIAL TREATMENT ACCORDED WCI APPLICATION SUGGESTS POSSIBLE ATTEMPT BY GOC TO USE TRADEMARK REGISTRATION PROCEDURES TO CLOSE TRADEMARK LOOPHOLE IN FIRA. LACK OF FIRA AUTHORITY TO REVIEW LIMITED OFFICIAL USE

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TRADEMARK TRANSFERS WOULD HAVE ENABLED WHITE TO BEGIN MANUFACTURE OF APPLIANCES UNDER WESTINGHOUSE TRADEMARK ON JULY 1 IF COMPANY HAD SO CHOSEN, DESPITE TWO GOC REFUSALS OF WCI ATTEMPTS TO TAKE OVER CANADIAN PHYSICAL ASSETS.

4. FYI. THE PARIS CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY, TO WHICH CANADA, THE U.S. AND SOME 85 OTHER COUNTRIES ADHERE, REQUIRES THAT MEMBER STATES PROVIDE NATIONAL TREATMENT IN THE PROTECTION OF PATENTS AND TRADEMARKS. THIS MEANS THAT FOREIGN OWNERS OF PATENT AND TRADEMARK RIGHTS IN CANADA SHOULD BE PROVIDED TREATMENT IN THE PROTECTION OF THESE RIGHTS WHICH IS AT LEAST EQUIVALENT TO THE TREATMENT PROVIDED TO CANADIAN NATIONALS. IF CANADA EVER INTRODUCED A SYSTEM UNDER WHICH THE TRANSFER OF FOREIGN-OWNED TRADEMARK RIGHTS (OR PATENTS) WERE SUBJECT TO CERTAIN CRITERIA WHICH DID NOT APPLY TO THE TRANSFER OF CANADIAN-OWNED TRADEMARKS, SUCH A SYSTEM MIGHT BE INCONSISTENT WITH THE NATIONAL TREATMENT PROVISIONS OF THE CONVENTION.

5. EMBASSY ACTION REQUESTED: BE ALERT FOR POSSIBLE FUTURE CLAMOR BY ECONOMIC NATIONALISTS TO BROADEN FIRA REVIEW

AUTHORITY TO INCLUDE TRADEMARK TRANSFERS, AND REPORT
PROMPTLY ON ANY SUCH DEMANDS. CHRISTOPHER

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